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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA

3:15-cr-00438-JO

v.

**GOVERNMENT'S MOTION TO
CONTINUE DUE DATE FOR EXPERT
REPORT**

WINSTON SHROUT,

Defendant.

The United States of America, by and through Billy J. Williams, United States Attorney for the District of Oregon, and Stuart A. Wexler and Lee F. Langston, Trial Attorneys, Tax Division, hereby submits this Motion to Continue the Due Date for Expert Report.

On May 7, 2018, the Court had a hearing on the defendant's motion for a hearing to determine mental competency (Doc. 129). As the Court is aware, the defendant filed that motion on April 16, 2018, more than 28 months into this litigation. At the hearing, the government raised a number of issues with the examination and conclusions of the defendant's expert Dr. C. Chyrelle Martin. At the hearing, the Court ordered that the defendant be examined by another expert Dr. Stephanie Lopez of the Oregon Health and Science University. The Court ordered that Dr. Lopez file her expert report no later than June 29, 2018. (Doc. 141).

Dr. Lopez was able to examine the defendant on June 13, 2018. Following that interview, she informed counsel for both parties that she would like to conduct a phone interview with, among others, Pat Bekken, the defendant's partner. Ms. Bekken, who has lived with the defendant for over a decade had not been questioned by Dr. Martin. Dr. Lopez requested permission to speak to Ms. Bekken on June 17, 2018. As of today, that phone interview has not been arranged between Dr. Lopez and Ms. Bekken and defense counsel has informed Dr. Lopez that Ms. Bekken is on vacation and not available for a phone call until July 5, 2018. Dr. Lopez has informed both parties that Ms. Bekken's interview is an important part of delivering an accurate report.

As the Court will recall, a significant issue in determining the defendant's competency is evaluating whether the defendant is malingering to avoid the substantial jail sentence recommended by probation. Giving Dr. Lopez the opportunity to interview the woman living with the defendant who has an opportunity to observe him every day is necessary to provide a report that is accurate as possible. Dr. Lopez has informed the parties that if she could speak to Ms. Bekken on July 6, she could complete her report on July 9. The government has contacted

defense counsel by both phone and email and he has not indicated whether he would consent to such an extension.

Here, Dr. Martin evaluated the defendant on February 12, 2018, and issued her report on April 9, 2018. Dr. Lopez was given the chance to evaluate the defendant on June 13, 2018. Surely it is not unreasonable to permit her an extension to July 9, 2018 to allow her to submit a report that is complete as possible.

Accordingly, for the foregoing reasons, the government respectfully requests that the due date for Dr. Lopez's expert report be extended to July 9, 2018.

Dated: June 29, 2018

Respectfully submitted,

BILLY J. WILLIAMS
United States Attorney

s/Lee F. Langston
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CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorney of record for the defendant.

s/Lee F. Langston
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